THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS. **SUPERIOR COURT**

Docket No. 217-2003-EQ-00106

In the Matter of the Liquidation of
The Home Insurance Company

AFFIDAVIT OF PETER A. BENGELSDORF, SPECIAL DEPUTY LIQUIDATOR, IN SUPPORT OF MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT WITH J&J, IMERYS AND CYPRUS

I, Peter A. Bengelsdorf, hereby depose and say:

1. I was appointed Special Deputy Liquidator of the Home Insurance Company ("Home") by the Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of Home. I submit this affidavit in support of the Liquidator's Motion for Approval of Settlement Agreement with J&J, Imerys and Cyprus. The facts and information set forth are either within my own knowledge gained through my involvement with this matter, in which case I confirm that they are true, or are based on information provided to me by others, in which case they are true to the best of my knowledge, information, and belief.

2. The motion seeks approval for the Settlement Agreement and Mutual Release ("Settlement Agreement") between (i) Johnson & Johnson, Red River Talc LLC, and Pecos River Talc LLC (collectively, "J&J"), (ii) Imerys Talc Vermont, Inc. (f/k/a Windsor Minerals, Inc.) ("ITV"), Imerys Talc America, Inc. (f/k/a Luzenac America, Inc.) ("ITA"), and Imerys Talc Canada Inc. (collectively, "Imerys"), and (iii) Cyprus Mines Corporation ("Cyprus") (J&J, Imerys and Cyprus collectively "Claimants"), on the one hand, and (iv) the Liquidator. The Settlement Agreement was negotiated under my supervision. A copy of the Settlement Agreement is attached as Exhibit A to the Liquidator's motion.

3. Home issued 21 policies under which Johnson & Johnson is the named insured for various periods between January 1, 1973 and January 1, 1982 which, together with all other insurance policies Home may have issued to Johnson & Johnson are referred to collectively as the "Policies." See Settlement Agreement, second Whereas clause.

4. J&J submitted proofs of claim in the Home liquidation assigned two proof of claim numbers seeking coverage in connection with liability arising out of bodily injury from exposure to talc which, together with any other proofs of claim hereinbefore or hereinafter filed by J&J in the Home liquidation, are referred to collectively as the "J&J Proofs of Claim". Settlement Agreement, third Whereas clause.

5. J&J and the Liquidator entered a Settlement Agreement and Mutual Release dated December 2, 2020 ("Initial J&J Settlement Agreement"). The Initial J&J Settlement Agreement was subject to the approval of the Liquidation Court. The Liquidator moved for approval of that settlement by the Liquidation Court on December 3, 2020. See Settlement Agreement, fourth Whereas clause.

6. J&J then learned that ITV asserted rights in the Policies, and J&J with the assent of the Liquidator moved to hold the Liquidator's motion for approval of the Initial J&J Settlement Agreement in abeyance. The motion continues to be held in abeyance pursuant to a series of motions filed by J&J with the assent of the Liquidator. See Settlement Agreement, eighth Whereas clause.

7. With J&J's assent, the Liquidator is withdrawing the Liquidator's motion for approval of the Initial J&J Settlement Agreement concurrently with the filing of the motion for approval of the Settlement Agreement. The Liquidator and J&J agree that, upon the filing of the withdrawal, the Initial J&J Settlement shall be null and void and of no effect. Settlement Agreement, fourth Whereas clause, ¶ 2(B).

8. Imerys (which includes ITV) are certain of the debtors in bankruptcy proceedings pending in the United States Bankruptcy Court for the District of Delaware ("Imerys/Cyprus Bankruptcy Court") in jointly administered cases captioned *In re Imerys Talc America, Inc., et al.*, Case No. 19-10289 (LSS), and Cyprus is a debtor in the bankruptcy proceeding pending in the Imerys/Cyprus Bankruptcy Court, *In re Cyprus Mines Corporation*, Case No. 21-10398 (LSS). Settlement Agreement, fifth and sixth Whereas clauses.

9. Imerys has proposed the *Second Joint Plan of Reorganization of Imerys Talc America, Inc. and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* dated November 5, 2024, as the same may be amended or modified from time to time (the "Imerys Chapter 11 Plan"), and Cyprus has proposed the *First Amended Plan of Reorganization of Cyprus Mines Corporation Under Chapter 11 of the Bankruptcy Code* dated November 5, 2024, as the same may be amended or modified from time to time (the "Cyprus Chapter 11 Plan"). Settlement Agreement, seventh Whereas clause. The Imerys Chapter 11 Plan and the Cyprus Chapter 11 Plan are collectively referred to as the "Imerys/Cyprus Plans."

10. ITA, as assignee of Cyprus, has submitted claims in the Home Liquidation seeking coverage in connection with liability arising out of bodily injury from exposure to talc under policies issued to Cyprus as the named insured. Those claims have been assigned proof of claim number INSU715340. That proof of claim is not included in this Settlement Agreement but any ITA claims under the Policies are included in this Settlement Agreement Settlement Agreement, ninth Whereas clause.

11. ITV has submitted claims in the Home Liquidation seeking coverage under the Policies in connection with liability arising out of bodily injury from exposure to talc. The claims have been assigned one proof of claim number and together with any other proofs of claim hereinbefore or hereinafter filed by ITA and ITV in the Home Liquidation except

INSU715340 are defined collectively as the "Imerys Proofs of Claim." Settlement Agreement, tenth Whereas clause. The J&J Proofs of Claim and the Imerys Proofs of Claim are defined collectively as the "Proofs of Claim." Settlement Agreement, eleventh Whereas clause.

12. Red River Talc LLC is a debtor in bankruptcy proceedings ("Red River Bankruptcy") pending in the United States Bankruptcy Court for the Southern District of Texas ("Red River Bankruptcy Court"), *In re Red River Talc LLC*, Case No. 24-90505 (CML) and Red River Talc has proposed an Amended Prepackaged Chapter 11 Plan of Reorganization of the Debtor dated September 20, 2024, as the same may be amended or modified from time to time ("Red River Chapter 11 Plan"). Settlement Agreement, twelfth Whereas clause. The Red River Chapter 11 Plan and the Imerys/Cyprus Plans are collectively referred to as the "Bankruptcy Plans."

13. J&J, Imerys and Cyprus have entered an Amended and Restated Settlement Agreement that was approved by the Imerys/Cyprus Bankruptcy Court on October 31, 2024 (the "Bankruptcy Settlement"). Settlement Agreement, thirteenth Whereas clause. Among other things, the Bankruptcy Settlement resolved disputes among J&J, Imerys and Cyprus over rights to proceeds of the Policies.

14. The Claimants and the Liquidator have now negotiated the Settlement Agreement reflecting a resolution of all matters concerning the Proofs of Claim and their rights and obligations with respect to the Policies. Settlement Agreement, fourteenth Whereas clause, ¶ 2(C). The Settlement Agreement is subject to approval by this Court, the Imerys/Cyprus Bankruptcy Court and, while the Red River Bankruptcy is pending, the Red River Bankruptcy Court. Settlement Agreement ¶ 1.

15. The Settlement Agreement provides that the Liquidator will recommend allowance of the Proofs of Claim in the amount of $111,381,494 (the "Recommended Amount")

as a Class II priority claim under RSA 402-C:44. Settlement Agreement ¶ 2(A). Allowance of the Recommended Amount as a Class II claim will fully and finally resolve the Proofs of Claim and all claims the Claimants have under the Policies. Id., ¶ 2(C).

16. Distributions on the Recommended Amount to account for past distributions are to be made within 30 days following notice to the Liquidator of the last approval required for the Effective Date of the Settlement Agreement. Subsequent distributions will be made as applicable to all other Class II creditors of Home. The Liquidator is to make the distributions to two accounts as directed in joint instructions from J&J, Cyprus and ITV. Settlement Agreement, ¶¶ 1, 2(C), 9.

17. The Settlement Agreement is intended to resolve the Proofs of Claim and all claims that the Claimants have under the Policies. Settlement Agreement, ¶¶ 2(D), 10. To that end, the Settlement Agreement provides for mutual releases of all claims between J&J, Imerys, Cyprus, on the one hand, and the Liquidator and Home, on the other hand, arising out of or in any way related to the Policies. Id., ¶¶ 3-6.

18. Red River, Imerys and Cyprus have presented their respective Bankruptcy Plans to their Bankruptcy Courts. Assuming the Bankruptcy Plans are approved and become effective, the Bankruptcy Plans each provide Settling Talc Insurance Companies, as Protected Parties, with the protection of certain channeling injunctions and indemnifications. In the Settlement Agreement, Red River, Imerys and Cyprus agree that, subject to the effectiveness of their Bankruptcy Plans, the Settlement Agreement constitutes a Talc Insurance Company Settlement Agreement entitling Home to the protections of the Channeling Injunctions and the indemnification of Protected Parties under their respective Bankruptcy Plans. Settlement Agreement, ¶¶ 7-8.

19. In resolving all of the Claimants' claims relating to the Policies, the Settlement Agreement is intended to resolve all matters arising out of or relating to any rights the Claimants ever had, now have, or hereafter may have in the Policies, including any asserted rights of third-party claimants against a Claimant under the Policies. Settlement Agreement, ¶ 10. Each Claimant agrees to address, at its sole cost, any such claims of third-party claimants against that Claimant as if there had been no liquidation proceeding for Home and as if the Claimant had no insurance coverage from Home by virtue of the Policies. Id.

20. The Liquidator is not aware of any third party claimants asserting claims under the Policies. However, the denial of any third party claimants' claims without prejudice to their claims against a Claimant will not harm the third party claimants, who will continue to have their claims against the Claimant. As noted above, the Claimants have agreed to address these claims as if they had no insurance coverage from Home under the Policies. Settlement Agreement, ¶ 10. Third party claimants' proofs of claim against the insolvent Home, if not denied with the agreement, would release a Claimant from those claims up to the limits of the Policies but only entitle the third party claimants (assuming their claims were allowed) to the initial interim distributions and any later distribution at a presently undetermined distribution percentage from Home at the future date when distribution is made. It is not expected that the allowed claims of any third party claimants (or other Class II creditors) of Home will be paid in full. Under the Settlement Agreement, the Claimants will continue to be responsible for any third party claimants' claims against them, subject to the provisions of the Bankruptcy Plans. See Settlement Agreement, ¶ 10.

21. The Liquidator is not aware of any proofs of claim asserting a claim subject to the same policy limit as the Proofs of Claim resolved by the Settlement Agreement.[1] However, if a claim of another claimant is subject to the same limit of liability as claims resolved by the Settlement Agreement, and if the total allowed amounts for all claimants exceed the limit, then the allowed amounts for all claimants will be subject to adjustment under RSA 402-C:40, IV, so that the policy limit will not be exceeded. See Settlement Agreement, ¶ 11.

22. The Settlement Agreement reflects a compromise of the claims asserted in the Proofs of Claim. It is the result of negotiations involving the Claims Department, under my supervision, which has extensive experience in assessing the exposure presented by claims under Home's insurance policies. The agreed settlement amount is based on careful evaluation and negotiation of coverage obligations under the Policies respecting the underlying liabilities of the Claimants. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the $111,381,494 settlement amount as a Class II claim of J&J and ITV in accordance with RSA 402-C:45 and RSA 402-C:44, with distributions on that allowed amount to be made as provided in the Settlement Agreement.

23. I believe that the Settlement Agreement is fair and reasonable and in the best interests of the policyholders and creditors of Home.

[1] An insurer filed a contribution claim respecting the Policies. That claim was disallowed, and the disallowance was approved by the Court on October 16, 2016.

Signed under the penalties of perjury this 25 day of March, 2025.

Peter A. Bengelsdorf

Peter A. Bengelsdorf
Special Deputy Liquidator of The Home Insurance Company

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA
COUNTY OF VENTURA

On March 25, 2025 before me, Alexander Ilao, Notary Public, personally appeared Peter A. Bengelsdorf, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Signature of Notary Public

ALEXANDER ILAO
Notary Public - California
Ventura County
Commission # 2439761
My Comm. Expires Feb 28, 2027